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SUBJECT: SUCCESSFUL US - UAE LEGAL/REGULATORY WORKSHOP

REF: A. STATE 98673
1B. ABU DHABI 1015

¶1. (U) This is an action request. Please see para. 15.

¶2. (SBU) Summary: On September 24-25, the U.S. held a legal and regulatory workshop for the UAEG legal team responsible for the UAE's export control law. The UAE's team members clarified ambiguous aspects of the law and stated that the UAE was currently working on implementing regulations. The U.S. was pleased to hear that the law was drafted to give the government broad authority and flexibility, so that the UAE government can adapt their export control system to evolving challenges, i.e., new threats and changes to control lists, through regulations. The UAE legal team had clearly been thinking about the challenges of implementing the new law and pushed hard for examples of how the U.S. regulates exports, licenses exports and enforces its law. Many of the UAE questions were fairly basic, including questions on how to structure a licensing system. The U.S. side praised the UAE for being the first country in the region to establish a comprehensive export control law. The UAE team was delighted to hear that the U.S. found their law to provide a sufficient legal basis upon which to build an effective export control system. The challenge would be ensuring that the implementing regulations were sufficiently transparent and detailed and reflected the licensing policy established by the Guidelines of the four multilateral export control regimes (the Nuclear Suppliers Group, the Australia Group, the Missile Technology Control Regime, and the Wassenaar Arrangement). The U.S. team also urged the UAE to modify its control list to reflect the EU control list, which represents the international standard. End Summary.

¶3. (SBU) On September 24-25, an interagency team with representatives from State, Commerce, DHS/ICE, Department of Energy, and DOD/DTSA conducted a legal and regulatory workshop for UAE officials from the Ministries of Foreign Affairs, Interior, Economy, and Justice, as well as representatives from Dubai police, the Federal Customs Authority, and the Federal State Security Organization. Several of the UAEG attendees had been involved in the interagency committee drafting the UAE's new export control law, as well as the drafting of the implementing regulations.

The UAE delegation opened their presentation by acknowledging the importance of an export control law and stressing that this was a new field for the country. The UAE team leader Riyad Belhol stressed that the UAE was not a manufacturing, but a trading nation and expressed his concern that this would increase the challenges for implementing effective export controls. He noted that the UAE legal team

needed to conduct outreach activities with the UAE's various implementing agencies, with industry, and with prosecutors and judges. Renee Pan, the U.S. Delegation head, emphasized that we appreciated the significant step that the UAE took in passing a comprehensive export control law, the first country in the region to do so. She stressed the importance of an effective export control system in guaranteeing legitimate trade. Belhol, noting the difficulties the UAE would face in evaluating the risk associated with a transaction and the challenges of implementing an export control system in a country that trades but does not manufacture, asked whether the USG could provide the UAEG with advanced notification of U.S. licensed exports to the UAE in three categories (goods licensed for export to the UAE; goods licensed for another country, but transiting the UAE; goods licensed for another country that would be re-exported from the UAE). The U.S. delegation recognized their concerns and offered to take back to Washington the idea of an information sharing agreement with the UAE.

UAE Export Control Law

¶4. (SBU) Issa Baddour, a legal advisor at the Ministry of Economy (and one of the drafters of the law) explained the process underpinning the law. He said that the process had started about three years previously, when the UAE established a national committee consisting of about 20 institutions, both public and private. The Committee reviewed the comments, proposals, and suggestions of the institutions, and tried to balance trade and security concerns. UNSCR 1540 (2004) on Non-Proliferation of Weapons of Mass Destruction required countries to develop export control laws and various U.S. sponsored workshops helped with the deliberations.

ABU DHABI 00001695 002 OF 004

¶5. (SBU) Baddour then explained in detail the provisions of the law. He explained that the law broke down into two parts.

Part one dealt with general export-import issues. The goal was to harmonize efforts and regulations among the emirates under a federal umbrella. The Ministry of Economy had the lead on this portion of the law and would chair an interagency committee dealing with general exports and imports. Part two of the law dealt with export, reexport, transit and transshipment of "strategic goods" and was modeled on Singapore's export control law. According to Baddour, the UAE views its economic status as similar to Singapore's, with both countries enjoying a position as a regional trading hub. Although the UAE published Singapore's control list, the law allows the government flexibility to amend the list in regulations without amending the entire law. He stressed that the UAE had brought both the private sector and the various emirates into the legislative decision-making process and that the law had the blessings of both.

¶6. (SBU) According to this law, UAE's MFA will have the lead in dealing with strategic goods and will chair a strategic goods committee (committee). Baddour noted that, since most re-exports are via the UAE's many free zones, the UAEG ensured that the law covered the free zones. Representatives of the UAE's free zones will also be on the committee. The law also provides for establishing an executive agency under the MFA. This will serve as the secretariat to the strategic goods committee, receive and examine licensing applications, and make recommendations to the committee. He noted that the UAE had done something similar in its Chemical Weapons Convention (CWC) implementation, where the executive body makes recommendations to the committee and the committee makes the final determinations.

¶7. (SBU) The U.S. team expressed concerns that the size and varied representation of the committee, which includes industry representatives, might make it difficult for a licensing decision to be reached, especially if decisions

required consensus. The UAE side noted that the law allows for the committee to establish sub committees for specific tasks, such as license review. Baddour suggested that working groups for issues such as reviewing licenses would be set up under bylaws issued by the MFA. envisioned that certain subcommittees could have the lead on certain licensing issues and would discuss the recommendations of the Executive Agency and would refer cases directly to the head of the committee for a decision. The MFA head of the committee would have the final say on whether a license is issued. (Note: The MFA has not yet designated a committee head. End Note.) The regulations would specify conditions for licensing. Licenses could be denied due to violations of law or according to conditions covered in the regulations. There would be a two tier appeal process, first to the head of the committee, then to the courts.

¶ 8. (SBU) The U.S. side noted that the law presented a good framework for an export control system and one that gave the UAEG significant flexibility to be able to adapt to changing circumstances. It would be key for the regulations to go into sufficient detail for companies to be able to understand their license obligations and the licensing decision making process. Pan explained that the USG did have some concern about the UAE's control list, which was based on Singapore's old control list. Lisa Meyers from the Department of Commerce explained that Singapore will adopt an updated list in January 2008 that adds over 1,000 new items, thereby bringing under control items from the Missile Technology Control Regime and the Wassenaar Arrangement and additional Australia Group chemicals and equipment. The new Singapore list is in conformity with the European Union control list, which is the international standard. U.S. delegates passed over a copy of the EU list and urged the UAEG to revise its current list to match the EU list, explaining that conformity with international standards would improve clarity for businesses. The UAE team committed to bringing the list back to appropriate members of the committee for consideration.

U.S. Export Control Regulations and Enforcement

¶ 9. (SBU) At the request of the UAE delegation, the U.S. team
ABU DHABI 00001695 003 OF 004

discussed developing a licensing regime, presented an overview of the U.S. legal and regulatory system, and case studies of enforcement actions.

¶ 10. (SBU) Ms. Meyers gave a brief overview on the licensing process, focusing on the technical and policy review that the licensing authority conducts. The delegation discussed the roles of various agencies in the U.S. system, as well as our process to resolve disputes. Ms. Meyers emphasized the importance of the regulations having license review guidelines consistent with those established by the four multilateral export control regimes, and the importance of having clearly stipulated license review and denial standards which are well understood by industry. The UAE delegation was interested in the type of information the U.S. requires to be submitted with the applications, how applications are submitted and processed electronically. The UAE side appeared shocked about the number of licenses issued each year and wanted information on how many of the Department of Commerce's licensing officers were technical experts. They expressed concern that the UAEG would not have the technical expertise to adequately review license applications. USDel reminded them that they could reach out to other government agencies, universities and other organizations (such as the Abu Dhabi National Oil Company) which could have the requisite expertise and committed to helping the UAE develop the requisite knowledge of the regime control lists necessary to process licenses. The UAE and U.S. had an extensive discussions about how to evaluate the risk associated with a

transaction. The UAE delegation was very interested in any information the U.S. could provide about entities known to be involved in WMD programs (such as the Department of Commerce's Entity List), as well as information on licenses the U.S. issued for export to the UAE or reexport or transshipment through the UAE.

¶11. (SBU) Glenn Kaminsky briefed the UAE delegation on U.S. export control authority. The UAE's legal team was also interested in the enforcement briefing, expressing concern about how UAE officials could make effective cases for prosecution. DHS/ICE and BIS representatives walked the UAE through two case studies of successful export control investigation and prosecutions.

¶12. (SBU) The U.S. delegation discussed the training plan that was provided to the UAE in July (ref A) which proposed workshops on licensing, industry outreach, and enforcement. The U.S. team also promised to consider the UAEG request for training of judges and prosecutors in the application of the new export control law. The U.S. noted that it was open to the UAE's further recommendations on what types of assistance would be most useful.

¶13. (SBU) List of Attendees

UAE

--Lt. Col Dr. Riyadh Mohamed Kalfan Belhol, Legal Advisor
Dubai Police

--Lt. Col Hasan Ali Mirza, State Security, Legal Advisor

--Staff Lt Col. Mohamed Khalifa Al-Kitbie, Ministry of
Interior, Coordinator for Anti Trafficking in WMD

--Major Mansour Abdullah Mohamed, Dubai Police

--Major Omar Al Rahoumi, Dubai Police, Legal Department

--Captain Mohamed Saif Al-Miqbali, Dubai Police

--Saeed Muhaier Al-Kitbi, MFA Legal Department

--Juma Mohamed Al-Kait, Director WTO and FTA Affairs Ministry
of Economy

--Issa Baddour, Legal Advisor Ministry of Economy

--Yahya Al-Dabagh, Advisor Ministry of Economy

--Ahmed Baqr, legal Advisor Federal Customs Authority

--Mohamed Amadi, Advisor Ministry of Justice

U.S.

ABU DHABI 00001695 004 OF 004

--Renee Pan, Department of State

--Lisa Meyers, Department of Commerce

--Tom Madigan, Department of Commerce

-- Glenn Kaminsky, Department of Commerce

-- Shane Folden, Department of Homeland Security/ICE

-- Edward Fox, Department of Energy

-- Chuck Shotwell, Department of Defense

-- Ransom Avilla, ICE Attach

-- Oliver John, Econchief

-- Nasir Khan, Export Control Attach

¶14. (SBU) Comment: This was a very positive workshop. It was clear that the UAE legal team had thought about issues related to the law and was able to explain the thinking behind the law and clarify how some of the law's more ambiguous provisions would be clarified in implementing regulations. This was purposeful because the UAE wanted the law to give the federal government broad authority and allow the government the flexibility to adapt the export control system to evolving challenges. Based on the elementary nature of many of their questions, however, it was clear that they are still grappling with the complexities of implementing this new export control system. Post believes that we would have the opportunity to help the UAE implement its new law and would recommend holding a follow-on licensing workshop as soon as possible after the regulations are drafted. Post will follow-up with MFA to try and obtain a copy of either the draft or final regulations. In addition, post will follow-up on ref b training plan.

¶15. (SBU) Action Request: Post recommends that we seek to capitalize on the momentum by scheduling both a visit by Acting Undersecretary of State John Rood and the next Counterproliferation Task Force meeting in late January/early February 2008. Post also recommends that we propose a licensing workshop for December as soon as the regulations are issued. Post recommends that the Interagency consider a mechanism to share information on U.S. licensed exports to (and via) the UAE with the UAEG. Post also requests that Department consider a proposal to train prosecutors and judges on export controls and non-proliferation. This will help them understand the importance of these types of cases and improve the chances of successful prosecutions. Post requests that Department provide us with copies of Commerce licensing forms, and copies of USG and other governments' published entities lists.

¶16. (U) This cable was cleared by the delegation.
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